

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1465 OF 2005

Kakda Impex (India) Pvt.Ltd. .. Petitioners
V/s
Union of India & Ors. .. Respondents.

Mr.V.S.Nankani i/by Mr.M.R.Baya for the Petitioners.
Mr.A.S.Rao with Mr.Y.R.Mishra for the Respondents.

CORAM: S.RADHAKRISHNAN &
A.S.AGUIAR, JJ.

DATE : 06.06.2005.

P.C.:

1. Rule. Rule is made returnable forthwith. By consent taken up for hearing. The learned Counsel for the Respondents waives service.

2. Heard the learned Counsel for the parties. By this petition, the petitioners are challenging the order of CESTAT, West Regional Bench, Mumbai, dated 23rd March, 2005. By an order dated 23rd February, 2005 we had granted permission to the petitioners to approach the CESTAT to seek a clarification as indicated in the said order and especially with regard to the aspect as to whether the Tribunal has taken into account the deposit of Rs.54,46,284/- which is due to the petitioners. It appears from the averments in paragraph No.38 of the petition that the petitioners could obtain an authenticated copy of the order dated 23.2.2005 only on 23.3.2005. The CESTAT merely had a look on the said order dated 23.2.2005 and passed a clarificatory order. Mr.Nankani, the learned Counsel for the petitioners states that the petitioners were not given any

opportunity to file an application seeking clarification in pursuance of this Court's order dated 23.2.2005

3. In view of the above, we quash and set aside the order dated 23rd March 2005 passed by the CESTAT with liberty to the petitioners to approach the CESTAT by making an application seeking appropriate clarification as indicated in our order dated 23.2.2005. The petitioners shall make such an application within a period of two weeks from today.

4. Rule is accordingly made absolute with no order as to costs.

(S.RADHAKRISHNAN, J.)

(A.S.AGUIAR, J.)